

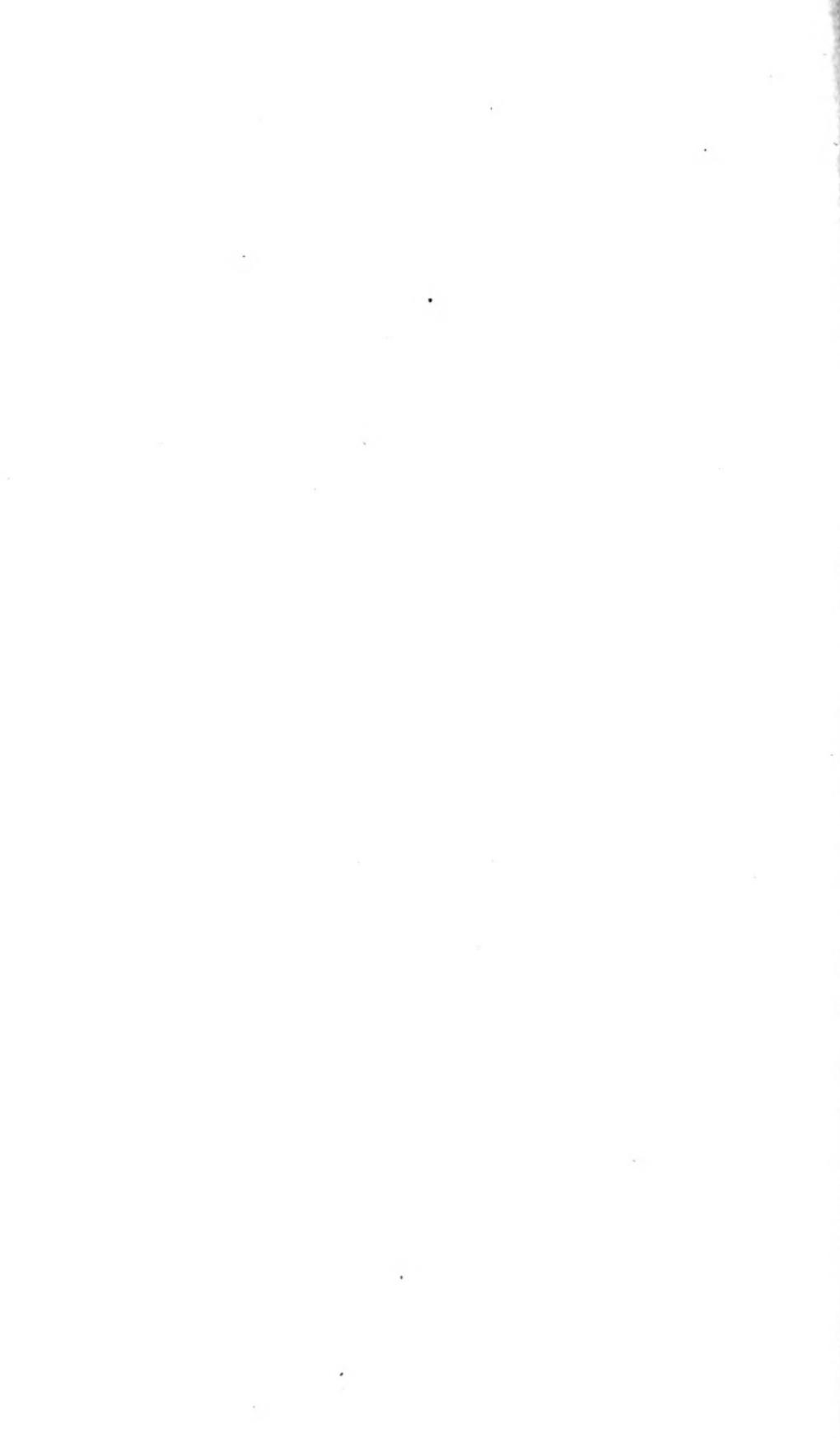
The Hon^{ble} J. J. Talbot
with W. Warner

LORDS LYNDHURST, BROUGHAM,

AND

LOCAL COURTS.

Reprinted from BLACKWOOD'S MAGAZINE, with Corrections
and Additions.



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LOCAL COURTS.

“ The greatest danger imaginable in this is, that it may give a handle to the erecting of county judicatures—to the COUNTER-MINING OF THE KINGDOM. And I must confess, were this to be the effect of it, I think it were the most pernicious thing imaginable. If men will indeed be *giddy* and *unsteady*, and if we should suppose Parliaments not to be wisely sensible of their own and the public concern, men may suppose that *5l.* may in time rise to be *50l.*—and so the courts of Westminster be destroyed. He that supposeth this, MAY SUPPOSE THINGS YET MORE DREADFUL.”—*Sir Matthew Hale.*

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CORRECTIONS AND ADDITIONS.

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NOTICE TO THE READER.

THIS article from Blackwood's Magazine has been published in its present form, in accordance with very numerous and urgent applications from various parts of the kingdom; and at a price which will bring it within the reach of every one who desires information on the very interesting and momentous question which it discusses.

Inner Temple, May 10. 1834.

LORDS LYNDHURST, BROUGHAM, AND LOCAL COURTS.

IT is amusing to see the consequences of any attempt to set Lord Brougham right with the public, by dispersing the mists of popularity which confuse and exaggerate his dimensions — by pointing out his true position, and exposing his plan of action. His numerous, active, and disinterested emissaries forthwith commence persuading ‘the people’ that he is atrociously misrepresented and persecuted — and that by those only who batten on abuses which his Lordship is wisely and patriotically bent upon extirpating. Lord Brougham — why should not ‘a man be first in his own cause’? — blows a sharp blast of egotism in Parliament, modestly likening himself, for instance, to ‘the great Lord Somers;’ — and his friends forthwith tell the people that as Lord Somers was opposed in his great reforms by ‘certain selfishly interested folk,’ so Lord Brougham, &c. &c. &c.! — hoping that, like bullies in an election crowd, they can thus deprive the unpopular candidate of a hearing ; that they can prepossess the intelligent middling and lower orders against even listening to the statement of an honest and fearless enquirer, and supply them with catch-words and slang with which to hoot him out of the field. All these poor tricks, however, we see through and despise. We come, therefore, confidently before the non-professional public, and bring to them an array of FACTS already well known to *lawyers* — and request, nay demand, a fair hearing : for the *occasion* of our doing so, the introduction of Local Courts, is one fraught with the uttermost consequence to the country.

Lord Brougham has contrived to make himself, perhaps, the most popular person in the kingdom. It has, indeed, been the sole herculean labour of his life to become so. He has manifested throughout his career a singleness of purpose in pursuing this object, backed by prodigious physical and great mental energies, which could scarcely fail of conducting him to success. See then the dizzy elevation he has attained — the Chancellorship of England ; a position of paramount sway in the Government ; the object of fervent flattery, philosophical, oratorical, and literary ; the idol of THE PEOPLE. We doubt whether any single individual, in ancient or modern times, ever *aimed* at levying contributions from so many and such apparently incompatible sources. And, in order to do so, it cannot be fairly said that Lord Brougham has been “ every thing by turns, and nothing long ; ” for he has, throughout his varied and brilliant career, subordinated every thing — every occupation — every accomplishment — every failure — every triumph — to the one object we have mentioned — popularity ; and that, consummate and permanent. He has striven, with persevering cunning, to entwine himself with every fibre of the people’s heart ; he would not have you touch one without the other ; they must stand or fall together. That his conduct has not at times exhibited features of singular weakness and imprudence, we do not mean to assert ; there have indeed been instances of such ; but they have been lost — consumed in the blaze of his successful ambition. Truly it is difficult, on many accounts, to speak soberly and accurately of Lord Brougham’s pretensions ; for the eye that would have scanned all, is apt, on a nearer approach, to settle exclusively on his more prominent qualities.

There ascended, many years ago, amidst the shouts of a vast concourse of spectators, a magnificent balloon. All eyes were charmed with its majestic figure, and dazzled with the variety of its hues, which the sun irradiated with tenfold splendour. Onward, upward it moved with graceful security, as in its appropriate element — gently oscillating high over-head, when it suddenly collapsed, and fell. Alas, the eyes that delighted

in its glorious figure, could not ascertain the strength of its contexture, or detect the fatal flimsiness of its seams ! Suppose, now, a by-stander, while this balloon was inflating, had ventured to scrutinize the expanding volumes of rustling silk, and even at length express a hint of their insecurity — with what superecilious incredulity would he have been listened to ! Verily — Lord Brougham is the balloon ! and such the state of feeling with which we sit down to examine and expose his character and pretensions. Not that we distrust our own spirit to enter into and prosecute the enquiry, or the sources of our information — we are confident of both ; but we *do* apprehend that his Lordship's admirers are so numerous and bigoted, and he so self-satisfied, that all we say will be but “as the idle wind, which he and they regard not !” Be that, however, as it may, we shall proceed at once to examine certain features of Lord Brougham's official character ; and, in point of intellectual and oratorical qualifications, institute a comparison between him and his predecessor on the Woolsack ; and by the time we have done so, the public will doubtless allow us to place the laurel on the stately brow of Lord Lyndhurst.

From the first moment of Mr. Brougham's appearing in public, he commenced ingratiating himself with the people. He came out on the popular interest — and he has since distanced and obscured all his brilliant competitors in the pursuit. He fought for “the people” in the Edinburgh Review ; became foremost in vehemence among their champions in Parliament ; his professional efforts were judiciously exerted in their cause ; he even went among them in his individual capacity, and harangued them on precisely those topics most likely to fascinate them — Education and the Slave Trade. No one ever timed his appearances with such tact as Mr. Brougham. He never struck till the iron was hot — and then he struck, indeed, with cyclopean force, till the country rung with the blow. His pursuit of popular applause deserved the name of a science. He has profoundly studied the anatomy of the people's heart, the exact mode of reaching, and producing an impression upon it. His object

has been to endear himself to it. With vast tact, versatile ability, inexhaustible energy, and daring courage, he ever took his place at the head of their ranks ; he ransacked history, ancient and modern, for inflammatory and flattering topics ; in their behalf, he by turns wheedled and threatened “ their enemies ;” he became “ all things to all men ” for “ the people ;” he thoroughly identified his interests with theirs — and laboured to persuade them, that, if they triumphed, it must be *through him*. And marvellously did opportunities favour him. Think of the Queen’s trial ! What a godsend for Mr. Brougham ! Mark the judgment with which he wielded the popularity it gave him ! He began his enquiries into the administration of Charities ! — Why need we dwell upon his arduous and persevering exertions in this enquiry — in the abolition of the Slave Trade — “ Popular Education ” — the Liberty of the Press — the “ Reform ” of the Law — the “ Reform ” of the Representation ? In short, by first artfully selecting no topics but such as were popular and palatable, he at length gained an ascendancy which enabled him to make any question he chose to advocate palatable and popular. As his power increased, so increased his disposition to exercise it. He had only to select his object, and the people ensured him success. Then he began to meditate changes on a mighty scale, in every department of the country ; whether for better or for worse, change he would have — and that, “ for the benefit ” of “ the people.” That this is a correct account of his motives and designs, may be distinctly seen in the unguarded frankness with which he expressed himself in a moment of delirious ecstasy — on the occasion of his return for Yorkshire. See his own sense of the importance, whether for good or for evil, he had at length acquired : —

“ It will arm me with an extraordinary, and vast, and important accession of power to serve — *the people of England.* ” And he subsequently expressed himself in a similar strain of triumphant enthusiasm, characterising his return for Yorkshire as

“ The highest honour of his life, the pride and exultation of which could never be eradicated from his mind

but by death, nor in the least degree allayed by the lapse of time—the most splendid distinction which any subjects could confer upon a fellow-citizen."

He solemnly and publicly devoted himself afresh on this occasion, in terms of vehement asseveration, to the service of the people; protesting that no offer of place, however eminent, should alienate him from their ranks—should displace him from the position to which THEY had elevated him. A distinguished gentleman, at once a Yorkshire client and constituent, asked him who was likely to succeed Lord Lyndhurst? Mr. Brougham mentioned Sir John Leach. "It is supposed," said his companion, with a significant smile, "that a certain member for Yorkshire is most likely to be the new Chancellor."—"God forbid! God forbid! God forbid! It is impossible," replied Mr. Brougham, with vehement emphasis. Alas, however, what is man? The gorgeous vision of the seals presently glittered before his eyes, and in three days' time they were deposited before the gaunt figure of Lord Brougham and Vaux, sitting upon the Woolsack! He took an early opportunity of assuring the Yorkshiremen, that his acceptance of office—"far from disabling him to discharge his duty to his country—far from rendering his services less efficient, had but enlarged the sphere of his utility, and held out the gratifying prospect, that, in serving his king, he should at the same time be better able to serve his country." His Lordship will forgive us, however, if we say it is one of the objects of this paper to prove, that, in making this desperate bound, his

"Vaulting ambition did o'erleap itself,
And fall on t'other side."

Consider for a moment the position Mr. Brougham occupied before his elevation. He was leader of the House of Commons; paramount within, idolized out of doors—and was besides, perhaps, one of the first men at the Bar, in point of practice and emolument. Look at the extensive machinery his sole hand had set working;—a Commission, extending the whole body of the common law upon the rack of investigation; another ransacking the

records of every charitable institution in the country ; an extraordinary organisation for “ educating ” the people, i.e., disseminating his own principles throughout the lower classes of society ; he had called forth a storm of fury on the subject of slavery, which no earthly force could prevent from devastating the Colonies — and chiefly stimulated the lower orders into their clamour for Parliamentary Reform ! Before proceeding, however, to show how he has “ served his King and his country,” as Lord Chancellor, we shall advert to one most characteristic feature of his crafty policy — that by which he has striven, and yet strives most effectually, to elevate himself upon the shoulders of the people — we mean — and grave is the charge as true — his uniform, artful DEPRECIATION OF THE ARISTOCRACY. Finding that he could not safely rise and retain his eminence, but at their expense, he has taken prodigious pains to point them out as “ the enemies of the people ” — the legitimate objects of their distrust and hatred ; possessing no *real* claims to superiority — ever grasping at rights and privileges inconsistent with the welfare of “ the people.” He has based much powerful declamation, many successful reasonings, on the assumption, that, if the people obtain their rights in any matter, it must be *in spite* of the aristocracy ; he has paid them, from time to time, when likely to be most effective, the bitterest ironical compliments ; and constantly insinuated that their ORDER is of trifling value, though heavy cost, to the State. Examine his various speeches and writings, and see if what we state be not true. We shall select a few instances. Mark the tone of his peroration on the Queen’s trial :—

“ My Lords, I pray your Lordships to pause. You are standing on the brink of a precipice.” — “ My Lords, from the horror of this catastrophe — save the country — save yourselves from this situation. Rescue that country *of which you are the ornaments*, but in which you could flourish no longer when severed from the people, than *the blossom* when cut off from the root and stem of the tree — save that country, *that you may continue to adorn it.*” — “ The Aristocracy which is shaken,” &c. “ But I do here pour forth my supplications at the Throne of Mercy,

that that mercy may be poured down upon the people of this country in a larger measure *than the merits of its rulers may deserve*, and that your hearts may be TURNED to justice."

Observe how artfully Mr. Brougham points the finger of public odium and disappointment *at the Lords*; how slightly he speaks of their station and uses; and prays that their hearts may be "*turned*" to justice! Mark him again (July 8. 1825), in a speech to the *Mechanics' Institute*, sneeringly representing the Aristocracy as "*our self-nominated superiors!*"

See the threatening tone he assumes — most unnecessarily — in his speech on the Local Courts Bill (Dec. 2. 1830) :—

"*I counsel* you to let no means unbefitting your high station — *to let no pride of place* prevent your earnestly attempting this great work. And let *neither your station nor pride* be offended, when I tell you that a feeling has gone abroad of disrespect towards both Houses of Parliament," &c. — "*if unhappily one party should be temporarily alienated.*" — "*I would say — maintain your own rights, preserve your own dignity*, but take care and do your duty to yourselves and the *alienated party*, by improving their condition, and removing all just grounds of complaint. Trust me, my Lords, the road to duty — *the door of reconciliation* — is open to you; and it will be exclusively your own faults if again the language of disrespect is addressed to you from any portion of the King's subjects."

Here he assumes that the Aristocracy and the people are estranged, and implores the former not to let their "*station*" and "*pride*" prevent a "*reconciliation*."

Mark, again, the air of insolent menace with which, in an hour of perilous excitement, he seizes the opportunity of holding *up this obnoxious order* (in the person of one of its most amiable and accomplished members) to the dislike, contempt, and ridicule of "*the people*."

"*My noble friend* (!) [Earl of Dudley,] too, who lives near Birmingham, and may therefore be supposed to know his own neighbours better than we can, sneers at

the statesmen of Birmingham, and at the philosophers of Manchester. He will live — I tell him — he will live to learn a lesson of practical wisdom from the statesmen of Birmingham, and of forbearance from the philosophers of Manchester. My noble friend was ill-advised when he thought of displaying his talent for sarcasm upon 120,000 people in the one place, and 180,000 in the other. He did little by such exhibitions towards gaining a stock of credit from the order he belongs to — *little towards conciliating* for the order he adorns, by pointing his little epigrams against such mighty masses of the people. He has thought it becoming and discreet to draw himself up in the pride of hexameter and pentameter verse — skill in classic authors — the knack of turning fine sentences, and *to look down with derision* on the knowledge of his unrepresented fellow countrymen, in the weightier matters of practical legislation. I have no desire ever to hear them read a Latin line, or hit off in the mother tongue any epigram. In these qualities, they *and I* freely yield the palm to others. *I, as THEIR REPRESENTATIVE, yield it.*" "*Again, representing them here, — for them I bow*" [suiting the action to the word] "*to my noble friend's immeasurable superiority in all things classical or critical. In book lore, in purity of diction, in correct prosody, even in elegance of personal demeanour, I and they hide our diminished heads.* But to say that I will take my noble friend's judgment *on any grave practical subject, — on any thing touching the great interests of our commercial country, or any of those manly questions which engage the statesman, the philosopher, in practice,* — to say that I could *ever dream of putting the noble Earl's opinions, ay, or his knowledge, in any comparison with the bold, rational, judicious, reflecting, natural, and, because natural, the trustworthy opinions of those honest men, who always give their strong natural sense a fair play, hating no affectations to warp their judgment — to dream of any such comparison as this, would be on my part a flattery,*" &c. — "*I speak now of the middle classes, of those hundreds of thousands of respectable persons, the most numerous, and by far the most wealthy, order in the community ; for if all your*

Lordships' castles, manors, rights of warren, and rights of chase, with all your broad acres, were brought to the hammer, and sold at fifty years' purchase, the price would fly up and kick the beam, when counterpoised by the vast and solid riches of those middle classes, who are also the GENUINE DEPOSITARIES of sober, rational, intelligent, and honest English feeling. Unable though they *may be to round a period, or point an epigram*, they are solid right-judging men ; and, above all, not given to change. They will neither be led astray by false reasoning, nor deluded by impudent flattery (!) ; but so neither will they be scared by classical quotations, or brow-beaten by fine sentences ; and as for an epigram, they care as little for it as they do for *a cannon ball!*"

This, to be sure, was said ostensibly of Lord Dudley only—of Lord Brougham's “friend,”—and very kindly said of him, too—but he must be blind, indeed, who does not see that—it was *really* said and meant of the whole “order” to which he belonged ! Ponder well, then, this passage ! The Lord Chancellor, knowing that the country was very near the verge of rebellion—that armed organised bodies of “hundreds of thousands” were talking of marching up to London, inflamed by the insidious misrepresentations of Lord Brougham's government—mark this Lord Chancellor rising from the Woolsack, to conciliate the people, to calm the smothered indignation of the Peers, by avowing himself THE REPRESENTATIVE of these PEOPLE ! The *Lord Chancellor* their *Representative* ! The self-dubbed representative of these insurgent “myriads” was then standing by the Woolsack—taunting the doomed aristocracy as the contemptible but designing enemies of “the people”—holding them up as differing from “the people” only in frivolous and insignificant accomplishments, and yet resisting their claims to the death ! We believe that on this memorable occasion “more was meant than met the ear;” that Lord Brougham, true to the principles of his whole life, distinctly calculated the force of his words—that they were timed with a tremendous precision, and that Providence alone averted the result.

One other instance — out of very many that could be se-

lected — and we shall proceed. It was on the last debate upon the Local Courts Bill. In the midst of much arrogant egotism, some of the Peers — finding the Chancellor at his tricks again, harping on his old string — smiled. See the malice of the cunning* Chancellor ! —

“ I shall endeavour to discharge my duty, thankful even for half an inch of concession in favour of the people ! ” — “ It matters little your dashing the cup of promise from my lips ; but it does matter your damping the hopes and dashing the cup of promise from the lips of the people of England.† [A smile.] I expected that smile, counselled as you have been that it would be degrading to you not to disregard such consequences. [No ! no !] I say yes ; you were told to disregard the feelings of the people ! [No ! no !] Well — then I am to understand you do regard the feelings of the poor suitor ! ” [Cheers.]

We were present at the debate, and never can forget the indignation excited by this despicable manœuvre ! The sarcasm about the “ smile,” however, is not original. Lord Brougham has borrowed it from that distinguished little gentleman, ^{Mr. Roebuck,} the member for Bath, who, in the course of his maiden speech in reply to Mr. Stanley, on the Address, observed, — “ He knew the cause of that sneer from the honourable member ; and if any thing was more distinctive than another of true aristocratic feeling, it was, that when any appeal was made to the kindlier and more honest feelings, they were sure to meet it with a laugh ! ” This leaf to be plucked by the Lord Chancellor out of the green chaplet of the little member for Bath — and that without scruple or acknowledgment, — is somewhat hard upon rising parliamentary talent !

* “ We take cunning for a sinister or crooked wisdom ; and certainly there is a great difference between a *cunning* and a *wise* man — not only in point of honesty but ability. *There be that can pack the cards, and yet cannot play well.* So there are some that are good in canvasses and factions, that are otherwise weak men.” —BACON’s *Essays*.

† Lord Brougham—or his secretary—wrote a letter to Birmingham, urging them to get up petitions in favour of the Bill ! — stating that he was twitted in the House with the absence of petitions !!

We cite these instances more in sorrow than in anger ; and, while we are on this part of Lord Brougham's character, cannot avoid noticing another manœuvre of his Lordship, practised about the time of debating the Reform Bill—when there was a slight manifestation of resistance to the payment of taxes. He caught up the idea—blazoned the intelligence from the Woolsack, magnified the mischief, by, in fact, suggesting its perpetration,—and then in lukewarm terms cautioned “the people” against doing any thing so improper, even so unconstitutional ! Was his Lordship acting on a hint in the writings of Lord Bacon, when he speaks of “*teaching dangers to come on, by over-early buckling towards them?*”

Since Lord Brougham's elevation to the Woolsack, he has developed certain qualities for which neither his friends nor enemies gave him credit—and it is easy to account for them ! His abuse, as “Mr.” Brougham, of Lord Eldon, will never be forgotten. Night after night did he vent in the House of Commons the most virulent calumnies against that most gifted and amiable nobleman—who repaid it, as became his superior qualities, but with an increase of personal courtesy, whenever he had the opportunity of manifesting it. But how did Lord Brougham act when, on the Woolsack, *he* fancied himself aggrieved ? We must explain a little, and that little will give a key to much of his Lordship's conduct. Did you ever chance to hear, reader of a certain Sir Edward Sugden ? Do you know that he is the most consummate real-property lawyer that lives—perhaps that ever lived—in this country ? That he is admitted on all hands to be the first practitioner in the Court of Chancery ? This is the man over whose head, to the indignation of the profession, Lord Brougham scrambled into the Chancellor's chair ; this formidable individual was henceforth to appear before *Lord Brougham* (!) as a counsel, and that in the profoundest discussions upon the most subtle and complicated of sciences. He was not to be cajoled by the new Chancellor into acquiescence in his various innovations ; for no sooner was his Lordship seated, than, like a madman “ scattering firebrands, arrows, and death,” he began to suggest alterations by wholesale in a system with which he was about as familiar

as his coachman or mace-bearer. Sir Edward, in his place in Parliament, suggested an enquiry into certain manœuvres of his Lordship. As soon as this came to the ears of the courteous and philosophic Chancellor, did he temperately and dignifiedly vindicate himself? He called Sir Edward Sugden *a bug!* Hear his very words, lest you should doubt the truth of our statement: —

“Yes, my Lords, we have all read that it is this heaven-born thirst for information, and its invariable concomitants — a self-disregarding and candid mind, that most distinguishes man from the lower animals — *from the crawling reptile, from the wasp that stings, and from the wasp that fain would but cannot sting: — distinguishes us, my Lords, not only from the insect that crawled and stings, but from that more powerful, because more offensive, creature — THE BUG — which, powerful and offensive as it is, after all is but vermin.* Yes, I say, it is this laudable propensity, upon which humanity justly prides itself, which, I have no doubt, solely influenced the learned gentleman to whom I allude, to seek for information which it would be cruel to stingily gratify.” — “The evil of little minds,” &c. *

Gentle but much shocked reader, this was uttered by the Lord High Chancellor, from his place in the House of Lords! When we read it, after our indignation had somewhat subsided, it brought to our recollection a felicitous passage in the speech of a Mr. Henry Brougham when defending a certain convicted libeller of the clergy: it shews both the premeditation of the abominable outrage on Sir Edward Sugden, and that, when Lord Brougham considers he has once uttered a good thing, he does not scruple to borrow even from himself! —

“Not that they — ‘the clergy,’ — wound deeply or injure much; but that is no fault of theirs; without hurting, they give trouble and annoyance. *The insect brought into life by corruption, and nestled in filth, [faugh!] I mean the DIRT FLY, though its flight be lowly and its sting puny, can swarm, and buzz, and irritate the skin, and offend the nostril — [faugh! faugh!] — and*

* Parliamentary Debates, July 26th, 1832.

altogether give nearly as much annoyance *as the wasp, whose nobler nature it aspires to emulate.*" *

Alas, is it not shocking that the Woolsack should be polluted by such filthiness and abuse? To see Lord Brougham — *aetatis sue 55* — diving into the forgotten depths of Mr. Henry Brougham's scurrilities, in search of the dirtiest drop he could find, to spurt it upon a gentleman before whose superior learning he trembled daily? Indeed, ever since he has occupied the seat of the Chief Equity Judge, he has displayed a petty spite — a paltry, peevish, irritable humour — towards Sir Edward Sugden, which nothing can explain, but his galling sense of inferiority. Well may the latter exclaim —

“ Let the galled jade wince—our withers are unprung.”

Indeed, Lord Brougham is not the man he was. Emulating the absurd ambition of Lord Erskine, he has leaped into a situation for which he is exquisitely unfitted, and is day after day mortified by a consciousness of the ridiculous position he occupies in the profession. Does he believe himself competent to comprehend — to *correct!* — the reasonings of the veriest tyro in Equity that trembles before him? — He anxiously gives out that he is hated and persecuted by the lawyers. Can he affect to wonder at their ridiculing his pretensions? Does he imagine them such preposterous dolts as not to see that his mismanagement of the Court of Chancery is obvious even to the non-professional public? Why, they are perpetually shocked by instances of his ignorance — and it is to this alone they attribute those helter-skelter blundering movements which his Lordship dignifies and popularises by the name of *Reforms!* We regret to say, that Lord Brougham has displayed an incredible degree of ignorance, not only of the practice of his Court, but of the very elementary

* Selections from Mr. B.'s Speeches, pp. 98, 99. (1832.) It would seem that his Lordship adds to his many acquirements the science of *entomology*, from the use he makes of the terms “ insects,” “ vermin,” “ bugs,” “ gnats,” &c. &c. They supply him with his choicest allusions in matter of sarcasm, or rather abuse; and nearly earned him a summary chastisement from a Yorkshire gentleman — Mr. Martin Stapleton — whom he ventured to term on the hustings “ a paltry INSECT!”

principles of the law. The ensuing instance may be vouched for. During a certain late case, “*Amphlett v. Parke*,” the following colloquy occurred between his Lordship and Counsel :—

Lord Chancellor (interrupting Counsel) — What ! do you mean to say that if I were to devise an estate to trustees, on trust to sell, with a direction that out of the produce of that estate my trustees were to purchase another — *which latter estate* I thereby devised to B — why — do you mean to contend that *such* a devise would be good ?

Counsel.—I apprehend, my Lord, perfectly so !

Lord Chancellor.—What ! an estate purchased after the date of the will ?

Counsel.—Most certainly, my Lord !

His Lordship drew back in his seat, confounded at the pertinacity of Counsel, simply through his ignorance of the hackneyed, the notorious, and very fundamental principle of equity, that “ it considers that to be *done*, which is directed to be done ! ” *

We wish, for the credit of the country, that this were a *solitary* instance ! It is painful thus to have cause for exposing Lord Brougham’s ignorance of that system which he has so rashly undertaken to administer, so presumptuously to overturn—but we think it our duty to do so. We belong ourselves to the English bar ; and, in common with our brethren, feel indignant at the spirit of ungenerous, virulent depreciation towards us—of mean sycophancy towards “ the people”—which his Lordship has manifested in his recent attacks upon our honour and independence. Lord Brougham, as he was always—and is—ready to snatch at any opportunity of pointing out the Aristocracy to the hatred and contempt of the people, so groans in spirit to render the same kindly offices to the

* See also the case of *Monckton v. Attorney-General* (2 Russell and Mylne’s Rep. 157.), in which Lord Brougham utters, deliberately, the following :—“ It is not more true that things that are equal to the same thing are equal to one another, than that persons related by blood to the same individual, are more or less *related by blood to each other !* ” There is a mathematical Chancellor for you !—Vide quoque *Drax v. Grosvenor*, &c. &c. &c.

Bar—or render it subservient to his own purposes. Verily, he that hates "*those damned attornies*," may yet be anxious to bribe the Bar ! Lord Brougham and his friends have one ready answer to every exposure of his ignorance and quackery,—that "*the profession*" are "*interested*" in opposing him. Interested ! What would his Lordship think of a gaping ploughman finding his way into the midst of complicated steam machinery, and forthwith finding fault with it, and directing alterations in every part of it ? If the engineers were to protest against his interference, and represent to him his incompetence, he would, with Lord Brougham, find a ready answer—“ Oh, I daresay I know nothing about it ! Very likely ! But can you get my partisans to believe you — you, who are so deeply interested in continuing the abuses I am correcting ? ”—“ *Deeply interested !* ” quoth the indignant engineers—“ of course we are ! We know the machinery, its working, and uses—but do you ? ”—We affirm boldly that Lord Brougham is utterly unfit for his office—none knows it better than he ; and hence his anxiety to “ shuffle off the mortal coil ” of business—to sever the political and legal functions of the Lord Chancellor. These latter, the newspapers inform us, his Lordship coolly offered to — Sir Edward Sugden — an *amende*, perhaps, to the victim of his former insult. Sir Edward will not be the man we take him for, if he accepts them.

One of the grounds on which Lord Brougham founds his frequent appeals to popular commiseration, is “ *the falsehoods* which are vented touching his disposal of the patronage of office.” Without ripping up every appointment he has made—and we are tempted to do so—we shall glance at one or two instances of his disposal of patronage, glaringly at variance with his deliberately formed, at least deliberately expressed, opinions on that subject, as “ Mr.” Brougham. Thus fairly and ably he spoke on the 7th February, 1828, in the House of Commons :—

“ The great object of every government, in selecting the Judges of the land, should be to select the most skilful and learned men in their profession.”—“ There

ought not to be, in choosing Judges from the bar, any exclusion or restriction. He alone ought to be selected in whom talent, integrity, and experience most abound, and are best united. The office of a Judge is of so important and responsible a nature, that one should suppose the members of government would naturally require that they should be at liberty to make their selection from the whole field of the profession—that they would themselves claim to have the whole field open to their choice. Who would not *believe that a ministry would not eagerly seek to have all men before them, when their object must be to choose the most able and accomplished?* * * * But is this the case? Is all the field really open? Are there no portions of the domain excluded from the selector's authority? True, and no law prevents it—* * * but a custom, ‘more honoured in the breach than in the observance,’ *that party, as well as merit, must be studied in these appointments!* * * * It must be admitted, that if a man belongs to a party opposed to the views of government, if—*which the best and ablest of men, and the fittest for the Bench, may well be—he is known for opinions hostile to the ministry, he can expect no promotion—rather let me say, the country has no chance of his elevation to the Bench, whatever be his talents, or how conspicuously soever he may shine in all the most important departments of the profession.* In Scotland, it is true, a more liberal policy has been pursued, and the Right Honourable Gentleman opposite (Sir Robert Peel) has done himself great honour by recommending Mr. Gillies, and Mr. Cranstoun, and Mr. Clerk—all as well known for party men there as Lord Eldon is here—though, unfortunately their party has been what is now once more termed the wrong side; *but all men of the very highest eminence among the professors of the law.* * * But, sir, what is our system? If, at the present moment, the whole of Westminster Hall were to be called on, in the event of any vacancy unfortunately occurring *among the Chief Justices*, to name the man best suited to fill it—to point out the individual whose talents and integrity best deserve the situation, whose judicial exertions were most likely to shed blessings on his country—can

*any one doubt for a moment whose name would be echoed on every side? No, there could be no question as to the individual to whom would point the common consent of those most competent to judge. But then he is known as a party-man—and all his merits, were they even greater than they are, would be in vain extolled by his profession, and in vain desiderated by his country. I REPROBATE THIS MISCHIEVOUS SYSTEM, by which the Empire loses the services of some of the ablest, the most learned, and the most honest men within its bounds.”**

It is to be presumed that the frank and upright speaker did not wish to point the attention of the House to himself, as the person possessing such eminent qualifications for the Bench—though this would seem questionable—since he finds it necessary to say, shortly after, “*I cannot take the situation of a Judge—I cannot afford it.*” Oh, no, the eye of this disinterested and philosophical reformer was, it seems, all the while, fixed on the glistening *summit* of the profession.

“*No sparrow’s hop from twig to twig was his—Whose powerful pinions seek the higher air!*”

The House—the whole profession—assumed, and correctly, that SIR JAMES SCARLETT was the individual alluded to. This consummate lawyer has long occupied the proudest station at the Bar—and none knew his admirable qualities more thoroughly than his sincere and eloquent panegyrist. Well!—Since the delivery of this speech, *the two Chief Justiceships* have fallen vacant, and been filled up by two different Administrations. Under that of the Duke of Wellington, the Chief Justiceship of the Common Pleas, *by the direction of Lord Lyndhurst*, was adorned by the elevation of Sir Nicholas Tindal—of whose character, as a lawyer, both practical and constitutional, and qualities as a man, it is needless to speak, seeing they speak for themselves. Since the accession of Lord Grey to power, the death of that most distin-

* Speech on the Administration of the Law, pp. 17, 18, 19.

guished judge, Lord Tenterden, placed the Chief Justice-ship of the King's Bench at the disposal of Ministers. Now — said the profession — now, said the public — for Sir James Scarlett ! But no ; not a breath — not a whisper of him !

“ Oh, no, we never mention *him*,
His name is never heard ” —

Lord Brougham's

“ Lips are now forbid to speak
That once familiar word ”

in the ears of Lord Grey ! Why ? Because Littledale, Parke, Patteson, Taunton — the eminent puisne Judges — were, one of them, entitled to the preference ? No, but Sir James had perpetrated a certain enormity — had committed the “ sin never to be forgiven ” by the present Ministry — he had presumed to oppose the Reform Bill, skilfully but temperately. Did that impugn his legal knowledge ? blot out his thirty years' experience ? warp his discretion and independence, and so render it not only impolitic, but unsafe, to invest him with the judicial ermine ? Did that change the opinions “ echoed on every side of Westminster Hall,” as to his legal fitness for the office ? Did that afford ground for “ depriving the country of the chance of his elevation ? ” Oh no ! Was he, then, becoming childish, — were his faculties “ falling into the sere and yellow leaf ? ” Oh no ! Witness him at this moment, the most active, brilliant, and powerful advocate at the bar ! No, Lord Brougham be-thought himself of Sir Thomas Denman * — his coadjutor

* On the Queen's trial, in answer to the suggestion of the King's Solicitor-General (now Lord Lyndhurst), that “ Bergami should be called to the bar, to state that the whole charge was a fiction,” [Trial, vol. iii. p. 288.] the present Chief Justice of the King's Bench deliberately asserted, that “ from the beginning of the world no instance could be found of an individual charged with adultery, being called to disprove it,” — the precise case having occurred on the occasion of a Divorce Bill in the House of Lords, in 1792 ! But fourteen years' experience has, no doubt, improved the law of Sir Thomas. — It is an error, by the way, to suppose that etiquette requires this office to be offered to the Attorney-General. Lord Tenterden was a puisne Judge when he was promoted.

in the Queen's trial—the King's Attorney-General! *He* was the lucky winner in the Government lottery of law prizes; and he sacrificed his prodigious practice at the bar to take the premier seat on the Bench, in order to “guide, control, correct” those young and inexperienced lawyers, Littledale, Parke, Patteson, and Taunton! God forbid that we should say aught to impeach *Lord* Denman, one of the most courteous, amiable, and dignified gentlemen that ever graced the seat of justice,—one whose personal qualities have long endeared him to every member of the profession, as his eloquence and elegant acquirements have won him applause from the public; but surely the blooming bouquet of *such* accomplishments was but ill suited to flourish upon the bleak barren eminence of the Chief Justiceship—in an atmosphere of law “chill and ungenial!” Though we sincerely love “his Lordship” we shall not flatter him, and therefore give utterance here to the indignant astonishment of the profession that *he* should have been selected, in preference to Sir James Scarlett—to ten, or even twenty others! Suppose the Duke of Wellington—suppose Lord Lyndhurst—had “done this deed,”—what blighting diaatribes should we presently have heard from Mr. Henry Brougham in the House of Commons!—how the press would have rung with execrations of such outrageous partiality and favouritism!

But, perhaps, a subsequent occasion would enable Lord Brougham to vindicate his character as an impartial dispenser of judicial preferment,—to look into his own speech, and act upon the principles it develops. Let us see. Mr. Baron Bayley—*clarum et venerabile nomen*—retires from the Exchequer, and —— and —— MR. JOHN WILLIAMS, K. C., is popped into his place! Think of that; meditate upon it; append a memorandum of the appointment, as an illustrative note to some future edition of the speech from which we have been quoting—which *we* are illustrating! Let it serve as a memento of Lord Brougham’s sincerity, consistency, impartiality, wisdom! ’Tis true that this eminent individual, Baron Williams, has edited an edition of Blackstone, and

compiled a little treatise on the study of the law* — works which he will now have time to look into on his own account ; that *he* also was employed for Queen Caroline ; that he has long been an able writer in the Edinburgh Review ; that he has relinquished a practice of at least 10,000*l.* a year at the Bar ; that he has been engaged in almost all the heaviest commercial and other cases that have happened in his time ; that the Law Reports are *studded* with innumerable masterly arguments of his ; that a many years' close intimacy with his illustrious friend Lord Brougham has had the effect of communicating to him much of that personage's minute, various, and profound knowledge of the principles and practice of the common law,—and will now attract into the Court of Exchequer more business even than in the time of his predecessor ; that he is proverbial for patience, tact, and temper ; that—above all—he contrived to withdraw the brave Mr. Brougham from the fury of Mr. Stapylton whom he had grossly insulted, and so saved his valuable life to the community — BUT —

What say *you* to all this, my Lord Chancellor ? Oh — if your own heart do not condemn you, “ neither do we. Go in peace, *and sin no more !* ”†

But “ rumours are abroad — whispers fill the air — every species of tale is afloat ‡,” my Lord, about one Sir William Horne ! It is hinted that he has been atrociously jockeyed ; that he has been perfidiously manœuvred, not only out of the Baronship of the Exchequer, but his Attorney-Generalship, and flung back with contemptuous unkindness upon the surges of precarious private practice, amidst the sympathy — the amazement of his brethren. How is this ? Had your Lordship any thing to do with it ? Did you consider him competent for the office of Attorney-General, but unfit to continue such,

* Judge Williams's friends assert, with indignation, that he never had any thing to do with these two publications : perhaps they will go on to deny the truth of all the other compliments we have paid him !

† See the extraordinary use made of this quotation in the peroration of Mr. Denman's speech for the Queen.

‡ Lord Brougham's reply on the Local Courts' Bill. — 9th July, 1833.

or receive the ordinary compliment of elevation? Can it be true that your Lordship inveigled him into a resignation of his Attorney-Generalship by an explicit promise, which you knew it would be impossible to keep, but easy to back out of? Was there any proposition hinted at by your Lordship, which was at once rejected by Sir William *as unconstitutional*, but which you spoke of as furnishing matter for only a “*nine days' wonder?*” Is Sir William to be looked upon as a dupe? a victim? *Whose* dupe? *whose* victim?

We further congratulate your Lordship on your delicacy and discretion in filling up certain vacancies occasioned by the *retirement* of Sir William Horne. Mr. John Williams and Mr. Pepys being, whilom, her present Majesty's law officers, thought fit rudely to resign with Lord Grey; and her Majesty — Heaven bless her, as the country loves her! — lost no time in supplying herself with better men — Serjeants Taddy and Mere-wether, who now retain their offices. Your Lordship gracefully selects your Royal Mistress's two discarded servants, the one to be Baron of the Exchequer, and the other *King's* Solicitor-General! There is a piece of practical sarcasm for you! *Sic itur ad astra!* O rare Lord Brougham!

Again, let us reverently request your Lordship — “passing swiftly over” * the uproar and confusion you have created in your own Court — rule issuing against rule, and order countermanding order — to cast your eyes upon a certain Bankruptey Court — What! do you start? do you shudder to look at your hideous handiwork? Well, we shall not detain you long. We wish merely to remind you of a passage already quoted from your speeches, and ask a single question. “The great object of every government, in selecting the Judges of the land, should be to select the most skilful and learned men in their profession.” Did this “truism, with which you were ashamed to trouble the House,” escape your Lord-

* See his Lordship's advice to Lord Wynford in the last Local Courts' Debate.

ship's recollection in your hasty flight from the Bar to the Woodsack? In nominating the Judges of the Court of Review, how was it that only one was selected who had any practical knowledge of the law to be administered — Sir George Rose — and he made to occupy the junior post of all?

Such are samples of Lord Brougham's disposal of his existing stock of patronage: but who can trust himself to speak of the enormous and unconstitutional additions he has already made, and is still making, to that stock? Why, his "Commissioners" are crawling, "vermin". Like if you will all over the country, commanded to fasten and gauge upon fish wherever they can find it, and make it where there is none — at least so Mr. Brougham would have spoken of it. There can be no doubt that the Chancellor's incessant anxiety is to create lucrative employment which he may dispense among the needier members of the Bar. How many are there that look for a livelihood no longer to legitimate and honourable efforts in their profession, which it seems Lord Brougham's policy to render fruitless, by introducing changes which make that profession *worse* worth following — but to the Lord Chancellor! How many now are entering the profession solely on the strength of the semi-political and other offices created by Lord Brougham! Indeed, he is striking blows daily at the independence of the Bar! With "Mr." Brougham this was otherwise — alas for the discrepancy between profession and practice! — for "to him, much referring" * on these things, it always seemed a wretched business, &c. than to enjoy all that office could bestow || — office, of which the patronage would be an *irksome incumbrance* || — the endowment superfluous to one concern, with the rest of his industrious fellow-citizens, than his own hand-minister to his wants." |||| The patronage "an *irksome incumbrance*." Indeed, he has taken pains to make it so! He has gloriously in-

* Par. 1. That taking into account "the *supererogatory* dignified" is what Lord Brougham prides himself upon. — To me calmly reflecting these things such power is given "etc." (Inaugural Disc. in Germany).

— Speech in the Association of the Law, p. 115.

caused the family to be disbanded, the number of vagrants, and gave the trouble of inspecting all his houses for banditti in the country." The author, "very rarely, if ever, in the course of their duty, their men inspect him with a view to find vagrants and vagabonds in the management of the case, not necessarily informed him by their knowledge of his master and less preceding conduct. He knows this to be the case, he states it is his duty to do this, and, therefore, he gives them a full dinner and lodges at the house, and then sends them home the same." He is reported to have said that he hoped to set the law when there were no circumstances to hinder him. We will recall here a passage in Lord Brougham's essay of "Slavery and Freedom": —

" Friends and followers of that species of slavery, who call themselves 'Friends of Free Institutions' — a species of slaves for the soldiers and sailors too. Surely, unless 'Friends' had need of soldier-soldiers and sailor-slaves, it becomes whether they say, especially in these latter speeches, which he uttered last night, and last night again, of his 'slaves' — that they are the slaves of God, and of so much money!"

Having thus rapidly sketched out a few significant features in the public life and of Mr. — and "Lord" Brougham — having pointed out the course he from the first adopted, not to himself, the master-perspective with which he has adhered to it, and often by what unconvincing means — having said on the nature of his persecutions as first begun, with the original and express the grounds of his banishment, and, in those terms he forces to me — we come to his last grand scheme for effecting this object — his last effort. It is this crowning measure, so to speak, that it ought to present him self to have discovered the means of save himself upon his enemies. Having sent his agent to see what influence he could get to his advantage, he has, in his own language, in some singular words, as follows:

ing the popular feeling in his favour — forth comes “THE POOR MAN’S BILL” — introduced by “HIS REPRESENTATIVE” in the HOUSE OF “HIS ENEMIES” — his “SELF-NOMINATED SUPERIORS.” Here was a splendid opportunity for Lord Brougham to consummate his union with “the people,” by “*spreading a table for them in the presence of their enemies;*” by taking his old fond place at their head, partaking at their repast, and joining in their gibes and threats towards their discomfited enemies, who looked on! Now had arrived “the very nick of time” for Lord Brougham to bind the Aristocracy and the Bar into one bundle, and burn them together! To point them out to “the people,” as joint objects of suspicion, contempt, dislike! To strike a blow that should crush both! Here was an opportunity for scattering filth — not on one individual only, but upon the whole legal profession; for threatening the Peers — for flattering the People! — *Io triumphe!* — *The Poor Man’s Bill* — in the hands of *the Poor Man’s Friend* — in the house of *the Poor Man’s Enemy*! There is a grand climax! — Here, however, there shall be introduced upon our canvass a calm and noble figure — a legislator — one in every respect the contrast and superior of him whose doings we have been debating; one who showed Lord Brougham that he was not to have it all quite his own way — that he was reckoning without his host; one who hesitated not to step forth into the van of battle, and become — as Lord Brougham expressed it, in terms, and in a tone, of querulous alarm — “the chosen champion of the profession,” — Lord Lyndhurst: the one calling the Local Courts Bill “a monster of legislation,” — the other, “the Poor Man’s Bill!” — the one “*a very slight change* (!) in the existing institutions in the country;” the other, “a total dislocation of the framework of the laws.” Let us see, now, what manner of men are these two, and which is to be believed by the country. — One can scarcely mention the name of Lord Lyndhurst without adopting terms that may savour of exaggeration. He is a very dangerous man for the Chancellor to have ever confronting him in the highest quarters — ever coldly and keenly

scrutinising and exposing his sayings and doings — and therefore it has somehow or another become the business of the Poor Man's Press, being in the interest of the Poor Man's Friend, either to pass over in silence Lord Lyndhurst's most splendid exertions, or to vomit upon them the blackest bile that can be engendered in an organ of "envy, hatred, malice, and all uncharitableness." All, however, will not do : and there standeth the Poor Man's Friend, quailing before, and sadly shaken by, "this Champion of the Bar!"

Lord Lyndhurst's transcendent talents were early developed; and the moment an adequate opportunity occurred for displaying them, his rise was rapid. At Cambridge, with but little effort, he obtained the distinction of second wrangler, second Smith's prizeman, and Fellow of Trinity College. No *candid* person, with the opportunity of judging, would then, or will now, hesitate to award him the superiority over all his competitors, in point of natural capacity. His mind is, indeed, a diamond of the first water. It has a solidity, a comprehensiveness, a subtlety, an acuteness, which master with amazing ease and rapidity every thing to which its energies can be directed. With reference to many of his more eager and turbulent rivals, it may indeed be said, that "his soul was like a star, and dwelt apart." Lord Brougham's powerful mind is pre-eminently distinguished by its energetic activity; his thirst for information of every kind is insatiable; the herculean robustness of his physical constitution has enabled him to do more perhaps than any three of his contemporaries put together; and his eager ambition has ever exercised and sharpened his powers. Whatever be his qualities, natural or acquired, it has always been his pride — his business, and no doubt a laudable one, too — to display them on all occasions to the utmost advantage. His "darling joy" is to exhibit himself before the public in all imaginable attitudes; to spread before their dazzled eyes all the stores of his multifarious acquisitions. Hence the grateful spectators have not been backward in paying for the show; and they have constituted Lord Brougham the GREAT OVER-PRAISED, as Lord Lyndhurst has always been the GREAT UNDER-PRAISED. Now, in this activity

this thirstiness after applause, this restless ostentation, consists the great secret of Lord Brougham's success and popularity, the distinction between himself and Lord Lyndhurst. The latter has always seemed indifferent, haughtily indifferent, to the paens he could have at any time called forth, owing to a certain stateliness of pride, a reserve, an indolence he could rarely overcome. Mr. Canning's beautiful remark with reference to the British men-of-war off Plymouth, may be aptly applied to Lord Lyndhurst, — “he silently concentrates the force to be put forth on an adequate occasion.” Whenever that occasion arose, Lord Lyndhurst was always triumphant — sometimes amazing. Be the difficulty never so dark, so hopelessly vast and intricate, he can gather up and concentrate his powers till they illuminate it as a sun ; and when *that* is withdrawn, most other minds, able and strong withal, grope after him, as if by torchlight. Whatever Lord Lyndhurst does, cannot be better done. We wish our limits would allow us to quote, entire, *three* of his leading speeches in Parliament — or even one only — that on bringing into the House of Lords* the Bill for abolishing the Local Judicatures of Wales. We consider it a master-piece. There is a graceful ease and simplicity of statement, a lucidness of method, a terseness and force of expression and argument, that ensures to the hearer, or reader, a delighted sense of conviction. It is *simplex munditiis*; a charming chasteness and elegance pervade every part of it : no labouring after effect — no lunging sarcasm — no petty sneers or insinuations — no gaudy ornament, are to be found anywhere defiling it. His speeches on Reform, and on one or two other leading questions, are distinguished by great power and eloquence. He always produces a deep impression. You can hear a pin fall while he is addressing the House ; you may imagine yourself listening to — looking at — Cicero. His person, gesture, countenance, and voice, are alike dignified, forcible, and persuasive. No speaker of the present day has such a commanding use of the right hand and arm as he. With his long, white, extended fore-finger, he seems,

* Mirror of Parliament, 1830, Sess. I. pp. 2872-3-4.

as it were, to finish off his sentences with a visible point. He *stands* steadily, however vehement and impassioned in what he is delivering, never suffering himself “to overstep the modesty of nature,” to be betrayed into ungainly gesticulations. There cannot be a greater contrast than that exhibited by the present and the ex-Chancellor in these respects — except their judicial qualifications ! His acquirements are extensive and solid : he has a close and useful acquaintance with the mechanical sciences ; and when at the Bar, exceeded all his brethren in conducting cases involving such knowledge. Did you ever, reader, hear him sum up to a jury ? if not, lose no time in doing so, for you will perhaps never have an opportunity of hearing any thing approaching it. His judgments are all first rate. That in *Small v. Attwood* was acknowledged to be a prodigy. Then, again, there is a tact, a precision, a wariness about his movements, a long-headedness, a self-possession which has often borne him off triumphant from the most arduous debate. His aim is unerring. If you see him meditate a blow, depend upon it he will hit ! His conduct on the bench is admirable. He listens to a long and complicated discussion, tangled with detail, wire-spun in argument, with the most patient courtesy ; and at its close he will briefly and easily marshal every thing into its proper place, bring together every material discrepancy, detect the subtlest fallacies, and dart to the remotest consequences with the rapidity of lightning. Nothing seems capable of confusing or mystifying him. When the expertest counsel are wading into deep water before him, all but out of their own depth, they look up at his cold keen eye, and a faint smile, perhaps, on his fine features, satisfies them of the hopelessness of misleading him. We never see him but the picture sketched by Lord Bacon is brought before us : —

“ Judges ought to be more learned than witty, more reverend than plausible, and more advised than confident. Patience and gravity of bearing are an essential part of justice ; and AN OVERSPEAKING JUDGE is no well-tuned cymbal. * * * It is no grace to a Judge *first to find that which he might have heard in due time from the Bar, or*

*to show quickness of conceit in cutting off evidence or counsel too short, or to prevent information by questions, though pertinent.” ** Would it not seem, reader, as if the old philosopher had “ revisited the glimpses ” of the Court of Chancery — to read a grave and solemn rebuke to its present Lord ? Go you there — and see the fidgetiness — the irritability — the petulance — the not unfrequently absurd interferences and interpolations of the Lord Chancellor — his tart interruptions of counsel, — and resolve them, if you can, into any thing else than a miserable sense of unfitness and inferiority ! Go, then, to the Equity, or the Common Law side of the Court of Exchequer, and see Lord Lyndhurst despatching the most intricate and profound matters, as though they were mere child’s play — as far as ease is concerned ; full of cheerful urbanity and graceful forbearance ;—but comparisons, they say, are odious, and we pause !

Thus far had we written, when the Times Newspaper (of Thursday, March 6.) came under our notice, reporting certain sentiments uttered by Lord Brougham, the day before, in the Court of Chancery, which we could scarcely credit our eyes in reading. It is an additional evidence of Lord Brougham’s foolish inconsistency and rashness ; of the lamentable extent to which he is the sport of impulse and caprice ; of the little faith that is to be placed in any of his declarations. Who knows not how he has boasted in Parliament, in his Court, and in private — how his friends have blazoned abroad in public — the extraordinary rapidity with which he had despatched his “ Appeals ? ” On this, he and they have rested his claims to applause as a working Chancellor. WE, on the contrary, always reflected on a certain passage in the writings of Lord Brougham’s greatest predecessor :—

“ Affected despatch is one of the most dangerous things to business that can be. It is like that which the physicians call pre-digestion, or hasty digestion, *which is sure to fill the body full of crudities and secret seeds of diseases* ; therefore, measure not despatch by the time of sitting (!)

* Bacon’s Essays. — Of Judicature.

but by the advancement of the business. * * * It is the care of some only to come off speedily for the time, or to contrive some false periods of business, because they may seem men of despatch ; but it is one thing to abbreviate by contracting, another by cutting off ; and business so handled at several sittings or meetings, goeth commonly backward and forward in an unsteady manner.”*

This morning, however, Mr. Rolfe asks the Lord Chancellor about the Unitarian appeal case — telling him that it is fifty-nine off, [the Lord Chancellor denies that there are so many ; we have examined, however, and find that there are !] — When the Chancellor said —

“ He had long thought that it was by no means expedient to clear the paper of appeals !! nor even to reduce them to a very small number !!! Parties very often, in the first moments of their disappointment at finding the decision of the Court below against them, resolved on appealing ; but upon cooler reflection, and better advice than their own passions suggested, changed their resolution,” &c. &c. — thus at once knocking down the trumpery pedestal of popularity he had himself erected ! And after this, his Lordship perseveres in his bill for Local Courts, or, rather, his *“ Bill for enabling the poorer classes to rush into law without cool reflection, and with no better advice than their own passions suggest !”* O rare Lord Brougham ! And now for that Bill !

We were present during the last debate upon it.† We went to the House of Lords, expecting to see — in the language of pugilistic eloquence — “ a fair stand-up fight between two big ‘uns ” — and were not disappointed. We knew that each had every incentive to exert himself to the uttermost on that occasion. It was the present and the ex-Chancellor fairly pitted against one another. Lord Lyndhurst stood forth as the advocate of the Bar — of the Common Law — both menaced with extermination at the hands of their ungrateful head — of the middling and lower orders of the people, about to experience “ the perils of false brethren ” — of a false friend. Lord Brougham

* Bacon’s Essays. — Of Despatch, p. 84.

† July 9th, 1833.

was wedded by many personal considerations to the success of his Bill. It would at once extend and consolidate his power, and enable him, he thought, to inflict utter ruin on those contumacious members of the profession, who had refused to “bow the knee to Baal.” The cup of vengeance was now, however, to be dashed from his lips by him whom he had so rashly succeeded on the Woolsack; by him, this pet measure was threatened with utter defeat! We therefore expected a field-day, and were not disappointed. The House was soon filled, and the spaces at the bar and throne crowded with members of the House of Commons. Precisely at five o’clock, the slim, spare, pinched-up figure of Lord Brougham was discovered sitting on the Woolsack — his features full of feverish anxiety, and his gestures of impatience — beckoning hurriedly now to this one, then to the other friend, as he observed the Opposition Peers flowing into the House.

Lord Lyndhurst was one of the last that entered. Accustomed as we are to see his noble figure in the flowing costume of the Bench, we hardly recognised him in plain dress. His black surtout, elegant waistcoat, brown curly wig, and tonnish hat and gloves, give you the idea rather of a colonel of a cavalry regiment, than a grave law lord! Without an atom of foppery, there is a certain fashionable air about him which surprises one familiar only with the stateliness of the full-bottomed wig, bands, and ermine robe. A few papers peeping out of the breast-pocket of his surtout, together with a certain flush on his features, assured one that he had come prepared for battle! After one or two minor matters had been disposed of — in which the venerable Lord Eldon took part — Lord Brougham somewhat briskly stepped from the Woolsack, and, holding the Local Courts Bill in his hands, stated simply, that he rose to move the third reading — and should reserve himself for reply to what might be urged against it during the evening. He had hardly regained the Woolsack, when he found Lord Wharncliffe on his legs — apparently much to Lord Brougham’s surprise — moving the ordinary *smasher* on such occasions, that the bill be read a third time *that day six months*. His speech was short and able. He urged the lead-

ing objections to the bill in a business-like, straightforward style, and exposed the gross trick by which it had been introduced. “ Their Lordships were told by certain influential authorities to take care how they acted. They were charged with refusing to give the poorer classes that which was their due. They were finally told they must pass this bill, for they had no power to resist it. The bill made false pretences. It purported to be a bill for the recovery of small debts ; but *it went in reality to effect* a total change in the legal institutions of the country ; it introduced a totally new and extremely dangerous principle.” Lord Brougham, in his reply, unwittingly enhanced the weight of this testimony, by admitting, in terms almost amounting to sycophaney, “ the great experience,” the “ unsullied example” of Lord Wharncliffe ; whose opinion, at the same time is good for nothing, only when he avails himself of this “ *experience*” to condemn the Local Courts Bill ! “ I am exceedingly mortified,” said poor Lord Brougham, “ at the opposition I have received from the noble Baron ; for his authority is most important.” After Lords Rosse and Wicklow had shortly addressed the House, Lord Lyndhurst rose. Almost every Peer present turned instantly towards him in an attitude of profound attention — of anxious interest — and continued so till he had concluded : as well they might, while listening to one of the most masterly speeches ever delivered in Parliament. There was a manly fervour, a serious energy, in his tone and manner — a severe simplicity of style — a beauty and comprehensiveness of detail — a graceful, good-humoured, but most caustic sarcasm — a convincing strength of argument, which elicited repeated cheering from the House — followed, at its close, by several minutes’ applause ; but received from the candid unenvious Chancellor one short allusion, and that characterising it as a piece of “ *carping declamatory sneering!* ” No ! Not a syllable of kindness — scarce of frigid courtesy — escaped his lips, while replying to a speech from his splendid rival, destitute of even a tinge of acrimony or personality ! He was obviously mortified and alarmed at the powerful impression produced on all

sides of the House by their ex-Chancellor. Lord Plunkett, on the contrary, commenced his reply, such as it was, with an admission “that he feared the House would consider him presumptuous in offering himself to their Lordships after the transcendent and masterly speech to which they had been listening ; that he did not come forward in the hope of answering it.” *We* considered him indeed presumptuous ; and we vouch so also did Lords Grey and Brougham, who could not conceal their vexation at the tame, stammering, hesitating tone in which Lord Plunkett spoke, who had been hastily summoned from Ireland for that purpose. Even his acknowledged and practised powers were signally at fault that night ; either through a consciousness of the weak cause he was advocating, or the overwhelming superiority of the speaker he was following. We challenge any Peer or Commoner then present to impeach the accuracy of our statement.

When Lord Brougham rose to reply, vengeance gleamed in his eye — but not towards the spot occupied by Lord Lyndhurst ; his smothered fury at length burst — not upon Lord Lyndhurst, but (*pace tanti viri !*) upon one he considered a less formidable antagonist — Lord Wynford. * *Him* Lord Brougham assailed with a

* Lord Brougham is always abusing Lord Wynford — and knows we could supply the public, if so disposed, with his motives in doing so. We shall here give a specimen of the manly straightforward course he is in the habit of adopting towards those whom he secretly dislikes. Nothing like facts ! —

Oct. 10th, 1831. — The Lord Chancellor : [presenting a Bill to enable the Lords, &c. to re-hear *two causes* therein mentioned] : “I beg leave to call your Lordships’ attention to a reversal, by your Lordships, of a judgment of the Court of Session, in the *sequestration case of Macgavin v. Stewart*. The case was remitted to the Courts below, *with directions which the Judges have found it impossible to carry into effect*. English law phrases were used, of which the Judges below knew nothing, — such as, “*a special jury OF MERCHANTS*,” &c.

Oct. 11th, 1831. — Lord Wynford : “ My Lords, I have in my hand the judgment I pronounced, — and it contains no such words as “*special jury OF MERCHANTS* [!] : the words are, “*special jury*.”

Oct. 13th, 1831. — On this day the Lord Chancellor proposed that the Bill should stand over till next Session, “as no material

savageness of personal enmity which disgusted the House and disgraced the speaker — and that with the Throne of Majesty immediately behind, the supreme seat of justice beside him! *Flectere si nequeo superos, Acheronta movebo!* Afraid of approaching Lord Lyndhurst, he fixed his teeth the more vehemently in Lord Wynford, whom he worried with *wit*, said his friends — with insult, thought the House. We wish, good reader, you had been present that memorable evening. You would have seen a Lord High Chancellor, clad in the solemn costume of office, at times grinning and leering — twisting and writhing about — full of violent ungainly gesticulations — whisking to and fro the long sleeves of his robe — raving, ranting, tearing away — but hush! Sweet “People” — that was “the Poor Man’s Friend!” He was advocating “the Poor Man’s Bill!” — he was brow-beating the “Poor Man’s enemies!”

“THE POOR MAN’S BILL!” — Yes, this shocking twaddle was passionately adopted by Lord Brougham — repeated and harped upon, till at length he succeeded in eliciting the languid cheers of — His Majesty’s Ministers — despite the masterly and cutting exposure of Lord Lyndhurst! Hear him : —

“It has been said that this is the Poor Man’s Bill. Why, there is not a morning on which I do not find the same doctrine instilled into me in one of those documents, to which it is unnecessary more particularly to allude. It is said, ‘You must have some underhand motive for opposing such a measure.’ The statement is not true. Never was there a Bill less a *poor man’s Bill* than this. It is a Bill to enable a man of property to obtain judgment, to sue out execution, and to seize the property of the poor man, to assign it to the Registrar, to sell it; to turn him and his family into the streets in six weeks!

loss could arise to either of the parties.” It was *never* revived — at least we have searched the Index of the Mirror of Parliament with no small care, and do not find any mention of it. Well might Lord Wynford “complain of a bill brought in to correct a judgment, by those who have not taken the trouble to read it”!

It is emphatically, my Lords, a bill *to oppress* the poor. It is a bill to satisfy the creditor, by compelling the poor debtor to render him more speedy payment than could be obtained from the wealthy debtor — it is a bill to give the wealthy every possible facility of oppressing the man in the humble walks of life. The operation of the bill will be this — *tradesmen, shopkeepers, and others, will allow the poor man to run into debt to the extent of his property*, and if he fails to make instant payment, they will destroy him without mercy. Let me refer your Lordships to the evidence of Sir John Cross, who was examined by the Commissioners. He was asked — ‘Have you found any inconvenience from the facility with which small debts are recovered in the Court you have mentioned?’ He answered — ‘I had frequent occasion to observe that *the facilitating the recovery of small debts tended much to facilitate the contracting of them* by the poor and improvident, and to the consequent increase of litigation and poverty. It is a frequent practice for publicans to allow drink to their customers upon credit to an extent which I think they would not have done, if there had not been a court in which they could recover the amount so contracted ; and I observed, in a great many instances, that small shopkeepers who dealt in provisions, dealt largely in credit to the poor. The wives, and even the children of workmen, who were from home engaged in their occupations, could go to one of those shops and obtain what they wanted, which was charged as a debt to the absent master of the family ; and the account would run on in this way, as long as the shopkeeper thought it safe to risk his property upon such credit. He would go on with a great many customers of that description at the same time, and at a convenient season he would sue out in one day summonses against twenty or thirty such customers, and carry his accounts into the Court of Requests against them all.’ — That is the testimony of a gentleman who had presided for several years over one of these small tribunals, in the town of Manchester, which is one of the best administered small-debt courts in the kingdom. On his judgment implicit

reliance may be placed ; and after hearing that, it may be asked, whether THIS is to be considered — the Poor Man's Bill ! I wish to direct your Lordships' attention to the nature of the evidence on which this bill has been founded. It is called the Poor Man's Bill. Were the *poor*, then, the witnesses who have been examined ? No ; the witnesses were — wholesale tradesmen, shopkeepers, and sometimes bankers ! Well — and what do *they* say ? One, that there is nothing so abominable as the law of debtor and creditor in this country ; that there ought to be a power for the creditor to imprison the debtor, and compel him to work till he had discharged the debt, or a per centage upon it. Another says that there is no such abominable system in the world, as that of the Insolvent Debtors' Court. Another, that these courts should be without attorneys, and without professional men altogether ; and, in short, if your Lordships will read the evidence, you will find that *the chief object of those who were examined, seems to have been to procure a law which would enable the creditor to oppress, to grind, to destroy, with the utmost facility, his poor debtor.* Let not then this bill, my Lords, be called the Poor Man's Bill ; for, of all other acts, it is the most oppressive towards the poor man. * * * Then it is said the defendant may remove the case to the superior court — but on what terms ? Why, that he shall *give security* for the damages and costs which may be awarded in the action. The *wealthy* man will be able to do so. The bill in this, as in other respects, is in favour of the rich man — but the *poor* man can get no such security. What, then, is his situation ? Why, that if the circumstances attending the trial are such as to preclude the hope of its impartiality in the Local Courts, *he* must suffer all the inconveniences of such a result. And are your Lordships considered so destitute of all understanding, as to be told, after this, that the provisions of this bill are in favour of the poor ? * * Throughout this bill, the poor man is bound and fettered — he must take such law as they please to give him ; but the rich man can evade the law with ease. * * There is no provision in this 'Poor Man's Bill' in his

favour against a partial judge ; and suffering, as he is now said to suffer, under the scourge of dear and uncertain law, this bill will only add to his misfortunes, by making his *oppression — CERTAIN.*" *

So much for the clear masculine sense of Lord Lyndhurst. Now hear the declamation of the Poor Man's Friend in reply :—

" My learned friend has been jocose [*where!*] in reference to bestowing on the present measure the title of 'The Poor Man's Bill.' I adopt the name — it is an honourable one — the Bill *is* the Poor Man's Bill ! I call that a Poor Man's Bill which removes those obstructions which at present lie in the way of cheap and speedy justice, which enables the poor suitor, *no less than the rich*, to obtain a ready redress of his wrongs. I call that a Poor Man's Bill, which enables the poor suitor to obtain redress for his wrongs, or the payment of a debt, in the very next street to the cottage where he lives, without any of the expense, and delay, and vexation, and uncertainty, of coming some hundred miles to London to look *for costly justice*. I call that a Poor Man's Bill which, without taking away the poor suitor from his daily avocations, from his family, or from the employment by which he earned subsistence, enables him to go at once into court, and, face to face to his adversary, *obtain cheap and ready justice*. My learned friend has impugned the title, on the ground that it is absurd to call a bill friendly to the poor suitor which affords speedy execution against him ; but it must be recollected, that if the bill in view can provide speedy execution against the poor defendant, it, on the other hand, ensures him speedy execution against the rich defendant, WHEN (!) the *poor man is plaintiff*. He will therefore have no right to complain, particularly as, in the *majority of instances, he will be plaintiff* (!) It has been said, that as the poor man will not be able to afford security of costs, so as to enable him to remove the trial, in case of a wrong decision, the Bill cannot be considered as favourable to his interests. Now, this clause, for the removal of

* Hans. Parliamentary Debates, July 9th, 1833 : cols. 322—5.
vol. 19.

a trial, by *certiorari*, was introduced at the instance of a learned Lord, and very contrary to my own feelings on the subject. I yielded, however, to the sense of the House, and guarded against the abuse of the privilege by the rich man, by compelling him, in these instances, to give security, not only for the taxed costs, but for the full costs of the action ; so that the poor man will, in point of fact, receive just as cheap, though not so speedy justice. Such is the Bill I call upon your Lordships to sanction.”*

Positively, dear reader, we have given you the whole of the Reply of the Poor Man’s Friend, and that *verbatim et literatim*!

Well, then, People of England — Lawyers and Laymen ! Come ye hither ! “ Look on *this* picture — and on that ; ” — look steadily, judge fairly : and if you have an ace of understanding — if you see but an inch through the blinding mists of delusive prejudice and bigotry — lay your hands upon your hearts, and say which of these two is “ The Poor Man’s Friend ” — which of them has *established* his claim to that proud distinction ! If any of you hesitate, let us analyse the arguments of each.

This is not the *Poor Man’s*, but the *Rich Man’s* Bill, says Lord Lyndhurst, because —

1stly, The rapid proceeding to execution induces creditors to trust to the value of their debtor’s property ; and, therefore, the facility of recovering the debt, tends to increase the facility of contracting it.

2dly, This Bill avowedly gives such rapidity of remedy as will in a trice strip the debtor (generally the poor man) of his all, and turn his family out of doors — beggars.

3dly, The contradictory opinions of the great body of creditors, examined with reference to the principle of this Bill, raises the fair inference that their real object is to oppress the poorer classes, whenever they get them into their debt.

4thly, The security for costs and contingent damages, being easily obtained by the rich man, but with great

* Hans. Parliamentary Debates, col. 370.

difficulty by the poor man, inevitably tends to confine the right of appeal to the rich man : Ergo—it is the Rich Man's Bill.

Now—blowing away the froth and smoke—let us look closely into the Answer of the Poor Man's Friend.

This is the Poor Man's Bill, quoth he, because—

1stly, It enables him to get “*Justice*” cheaply—quickly—and without losing time in running after it.

2dly, *Any* speedy execution of judgment for him, is in his favour ; and if he gets it *instanter*, he cannot complain if his creditor gets the same against him.

3dly, If the rich man wishes for an appeal, he can obtain it only by risking all the costs ! Now, we will ask, not which is the poor man's true friend, and which the poor man's false friend, but merely which is the poor man's *discreet* friend, and which his *foolish* friend ? Line upon line—we will distil off the essence of these two “high arguments”—thus :

LORD LYNDHURST, EX-C.

The rich man is generally the creditor ; facility of recovering begets facility of contracting debts ; this bill avowedly increases the facility of recovering them ; and it is proved that creditors are really anxious only to oppress their debtors ; the poor man cannot, the rich man can, obtain security for an appeal.

. . . This is the rich man's bill.

[Aliter.]

This bill puts the poor more than ever into the power of the rich : ergo, it is the rich man's—

LORD BROUGHAM AND VAUX, C.

Admitting that the poor man is generally the debtor [for there is nothing but an *assertion* against it], and that facility of recovering begets facility of contracting debts, the poor man must not complain, if, obtaining justice quickly, he so suffers it, at the hands of the rich man, who will not *appeal* in the former case, because (*with the poor man*) he risks *costs*. . . . This is the poor man's bill.

[Aliter.]

This bill puts the poor more than ever into the power of the rich : ergo, it is the poor man's bill !

Is it not, now, a sight “gude for sair een,” to behold the long powerful pincers with which Lord Lyndhurst firmly takes up this Poor Man's Friend, holds him at arm's length, all the while squeezing closer and closer the writhing, struggling insect (NOBLER in name than bug,

wasp, or dirt-fly), and then lays him down in the dirt, where, after the manner of a half-crushed wasp, a pointless sting is thrust forth with incessant but unavailing fury?

Shout ye then — 'Hurra for the Poor Man's Friend! Hurra for the Poor Man's Bill! Here you see the Lord Chancellor fairly gravelled. Mr. Attorney-General, come forward, playing Sancho to Quixote, and extricate your master from the mire! Here is work for you,—that is, if you can ever creep into Parliament again! Who does not see that Lord Brougham's answer to Lord Lyndhurst is really none at all — mere stupid iteration of clap-trap, clap-trap? "Cheap justice! Got in the next street! Got at once! Face to face," &c. ! If there is a grain of argument in it, it surely belongs to the scale of Lord Lyndhurst! As for *assertion*, there is a notable one ;—that the "*Poor man is generally the creditor!*" Pray, my Lord, which of the two is oftenest the other's *landlord*? What is a more fertile source of oppression than rent in arrear? Who is it that *sells*, and who is it that must *buy*, at sudden exigencies, the necessaries of life, relatively speaking, the rich man or poor? Who is it that sells, and who that purchases, the commonest materials of trade? Who is it that is apt, at all hazards, to come short of paying his debts—the poor or the rich debtor? And yet, in all these cases, —oh, folly, cruelty, or stupidity prodigious!—you quicken and sharpen the remedies of the rich man in an Act of Parliament you nevertheless call "the Poor Man's Bill!" —Oh, my Lord, your plumes may be gaudy—your note attractive—but you are a very MOCKING-BIRD!

We can scarcely treat such follies gravely: but as it is the Lord Chancellor who propounds them, we will *try* to meet them respectfully. We will preach from these words, to be found in the speech of one Mr. Henry Brougham, on the Administration of the Law, in February, 1828.

"Cheap justice, sir, is a very good thing—but costly justice is better than cheap injustice." *

Now, what sort of "justice" is likely to be obtained

* Speech, page 40.

by “the Poor Man’s Bill?” Let us see, first of all, what sort of character the dispenser of these “healing streams”—the Local Judge—is likely to prove. Weigh well the following valuable evidence of a very competent witness:—

“A second and greater objection is, that the [Local] Judges never change their circuits. One of them, for instance, goes the Carmarthen circuit; another, the Brecon circuit; and a third, the Chester circuit—but always the same circuit. And what is the inevitable consequence? Why, they become acquainted with the gentry, the magistrates, almost with the tradesmen of each district—the very witnesses who come before them—and intimately with the practitioners, whether counsel or attorneys. The names—the faces—the characters—the histories of all these persons, are familiar to them. And out of this too great knowledge grow likings and prejudices, which never can, by any possibility, cast a shadow across the open, broad, and pure paths of the Judges of Westminster Hall! Then, again, they have no retiring pensions; and the consequence is, they retain their salaries long after they have ceased to discharge properly the functions for which they receive them.”

Now, does not the truth and force of this reasoning “come home to the business and bosom” of the Poor Man? Verily it ought—for ‘tis the language of His Friend—of Lord Brougham!* Witness his speech in the character of Mr. Brougham—his matured sentiments, uttered when his head was clearer than at present,—when his feelings were not warped either by the vagaries of ambition, or the desire of revenge!—So much, then, for Mr. Brougham in 1828. Now listen to Lord Lyndhurst in 1833:—

“Nothing can be more pernicious than this—the establishment of Local Judges. They must necessarily be confined within a very narrow district, become familiar with every litigant, with every witness; and must likewise have their enmities and their affections, and be liable

* Speech on the Administration of the Law, pp. 21, 22.

to be constantly influenced by such feelings. They will, in fact, be always liable to the suspicion of acting with partiality. Lord Hale gives a description of the local courts which formerly existed in this country, as being always liable to the charge of partiality ; and states, that it was in consequence of this, that it was found necessary to establish the present system in its room : and, for my own part, I cannot help thinking it would be great folly to revert to the system which our ancestors found it necessary to abandon. So strong was the prejudice on this subject, that acts of parliament were passed to prohibit judges from administering justice in the places in which they were born, or in which they had, for any length of time, resided. * * * The judges under this Bill will be removed from all collision with the courts at Westminster Hall ; and being without any excitement, and without the stimulus of competition, they will soon become utterly incompetent for the exercise of their duties.” [Debates, July 9th.]

Turn then to Lord Brougham in the same year, answering *both himself* in 1828 and Lord Lyndhurst in 1833.

“ He was aware that some very *specious* (!) objections might be urged against the measure ; and he did not underrate that which rested on the local prejudices of the judges.” [“ Passing swiftly ”] over the intervening paragraph, we find this Model of consistency declaring, “ that he looked on all fears arising from the local prejudices of the judges, as *utterly vain and chimerical* !” This may warrant us in passing over the remainder of this section of his speech, as “ *utterly* ” unworthy of consideration or quotation. The sum of it, however, is this : — That his “ local judges ” should be created, because we have already *Justices of the Peace* who well discharge similar functions ; that we have sufficient guarantee for their good behaviour in their character, and the surveillance of the press.*

* The mention of this word gave the Chancellor an opportunity for doing his dirty work again -- “ However their Lordships might sneer at the mention of a newspaper, as they always did,” &c., &c. !!! — *Ecce iterum Crispinus!*

So, when desperately driven, when made to gulp his own words, this poor man's friend, this GREAT OVER-PRAISED finds it necessary to resort to the GREAT UNPAID, as examples of immaeulate local distributors of justice! *They* — it is all of a sudden discovered — are such models of judges! Hear Lord Brougham's former opinion of this abused order, and say whether it is worth having on either side: —

“ There is the over-activity of the magistrate in an excessive degree. Over-activity is, usually, a very high magisterial crime; yet almost all the magistrates distinguished for over-activity, are clergymen, joined to *the local hatings and likings,*” &c. &c. “ This letter, which I entirely and implicitly believe, further declares, that many magistrates are actually in the commission only to support particular jobs; that they are known by the nicknames of ‘brewers’ hacks, justices of the pewter!’ I knew an instance where a licence was taken away from a house, because a magistrate, travelling in a cold night, was kept waiting for some time at the door of it!” [“ The *impartiality* of these local magistrates has never been impeached!!! What man in either House of Parliament would dream of throwing out even a suspicion, that the magistrates of England were not competent and disinterested, but the *most* competent, and the *most* disinterested that could be appointed!!!” *LORD BROUGHAM, July 9th, 1833.*] “ The same fault, and the same spirit, run pretty nearly through all the business that country magistrates do!!!” [*MR. BROUGHAM, February 7th, 1828.*]

We subscribe not to Lord Brougham's abuse of the justices, but his laudation, disinterested and consistent as it is. But who are these justices? Men generally above all suspicion of improper motives; great noblemen, clergymen, scholars, men of a certain ascertained amount of landed property in the country*; men to whom it is

* “ Because men of small substance had crept into the Commission, whose poverty made them both covetous and contemptible.” — *BLACKSTONE'S Commentaries, 353.*

essential to retain a high and unimpeachable character ; who have no trying temptations to diverge from the paths of uprightness. Besides, *two* at least must sit together to hear and determine cases *, mutually guiding and checking one another ; they are liable to summary dismissal in case of misconduct ; and there is a speedy appeal to the Sessions.†

But consider a barrister — and *such* barristers as will be got to fill these situations — located in a county — associating, either with the great men, and so liable to taint from sycophaney, or with the lower classes, encouraging, perhaps, litigation — fomenting bad feeling between them and the higher orders : possibly, fierce political partisans, to boot ! He cannot, besides, be removed, but by address to the two Houses of Parliament ; nor can even his *registrar* ! — who is thus secured in his privileges to an extent that poor Baron Smith of Ireland lately knew the want of ! This, however, will be a *dernier ressort* — a process that none would venture to resort to, but in cases of the grossest misconduct. After all, however, the institution of Justices of the Peace is liable — as none knows better than Lord Brougham and his friends — to divers inconveniences. But, surely, the very fact of their existence — especially with such a character as he has *last* thought fit to give them — is of itself an answer to the alleged necessity of introducing Local Courts. Then the surveillance — the control of newspapers. And will they attend to all these courts ? and if they do, how easy will it be for a judge, so minded, to commit gross injustice in such a manner as to elude *their* detection ! All the Argus-eyed inquisition of the poor man's press might fail to observe the dexterous inclination of the scales of justice but a hair the wrong way ; and yet that hair's inclination shall have the effect of grievously — irretrievably oppressing the poor suitor — who is thus, in all his small matters — small possibly in the estimation of the public, but serious to himself — entirely at the mercy of an incompetent or corrupt local judge. It may suit Lord Brougham

* Stat. 3 Geo. IV. c. 23. § 2.

† Burn's Justice, "Appeal."

to exhibit flourishing pictures of the possible excellences of Justices of the Peace—to pass over all the minor disturbing forces. Will every local Judge be a Lord Wharncliffe, in known responsibility, talent, and learning? As for the legal fitness of the local Judge—Lord Lyndhurst triumphantly established, both by argument and authorities, the inevitable tendency of a local Judge to become indolent, and consequently ignorant of the principles of law. So much, then, for the *Judge*. Then for—“*cheap justice.*” These two are Lord Brougham’s magic words. They are eternally on his lips; his crack slang; the phylactery which he binds upon his brow—but we do not think he has any definite meaning attached to them. Let him therefore learn a lesson on this subject from the wise and amiable Chief Justice of the Common Pleas—a Judge “ripe with the fairest uses of experience.”

“Indeed, law may be had too cheap,” says Sir Nicholas, “and then it becomes an unmitigated evil.” [He then supposes the revenue to become capable of affording justice *gratuitously.*] “Then every man’s hand would be raised against his neighbour; no fancied grievance would be allowed to sink into oblivion; no paltry assault, no petty trespass would be either forgiven or forgotten, and the courts would be occupied with the endless quarrels of the peevish and the discontented. It therefore operates as a wholesome check on the spirit of litigation, that there should be in law a dearness commensurate with the exigency which requires an appeal to it—a dearness which, while it does not check individuals in the pursuit of a real right, or impede them in gaining satisfaction for an injury inflicted, is much more beneficial to society, than a cheapness which places it within the reach of every vindictive and malicious spirit! ”*

But Lord Brougham will perchance say, that this is mere twaddle—theory—&c. Well—let us see whether there is any appeal to *facts* in support of it. Perhaps it

* Hans. Parl. Deb. N. S. 18th vol. p. 851.; and Mirror of Parliament, vol. i. p. 436.

will be found that they manage this “cheap law” better abroad! Hear, then, what our American friends have made of it!

“ The principle of bringing justice home to every man’s door, and of making the administration of it cheap, has had a full experience in America ; and *greater practical curses*, I will venture to say, were never inflicted on any country ! * * * The Pennsylvanians have done away with nearly all the technicalities of the law ; there are no stamps, no special pleadings, and scarcely any one is so poor that he cannot go to law. The consequence is — a scene of litigation from morning to night. Lawyers of course abound every-where, as no village containing about 200 or 300 inhabitants is without one or more of them. No person, be his situation or conduct in life what it may, is free from the never-ending pest of lawsuits. Servants, labourers, every one, in short, flies off on the first occasion to the neighbouring lawyer to commence an action. No compromise or accommodation is ever dreamt of ; the law must decide every thing. The lawyer’s fees are fixed at a low rate ; but the passion for litigating a point increases with indulgence to such a degree, that these victims of cheap justice, or cheap law, seldom stop while they have a dollar left.” *

Hear another witness to the same point : —

“ Litigation frequently arises here from the imaginary independence which each man has over others ; to show which, on the least slip, a suit is the certain result. *It is bad for the people that law is cheap, as it keeps them constantly in strife with their neighbours, and annihilates that sociality of feeling which so strongly characterises the English.* ” †

Yet, with all these facts and arguments, these “ wise saws and modern instances” heaped up before him — for his attention was specially called to them by Lord Lyndhurst, in a most forcible strain of eloquence — this Poor Man’s Friend [“ the Lord defend me from my

* Captain Basil Hall.

† Faux’s Memorable Days in America.

friends!"] persists in his preposterous plan ! He avoids the rock of reasoning — for he leaves the strongest points in Lord Lyndhurst's speech totally unanswered — and "gambols," grampus-like, along a foaming sea of declamation, about "cheap justice" — "denial of it to the poor man" — "got in the next street" — "bringing it home to the poor man's door" — aye, believe us, poor man, that it will "stand a very devil at thy door," who will not *leave* at thy bidding ! Believe us, you ask for a fish, and your FRIEND flings a scorpion among you — for a stinging scorpion ever was this "cheap justice" found, and will be ! Think a little for yourselves, in a matter that so momentously concerns you. Suppose a man is in a sudden fit of fury towards another, would you rejoice that there lay a sharp knife within his reach ? Now this sharp knife is the "cheap law" — which your kind FRIEND is cruelly sharpening against such time as your passions may be up to do desperate things ! Or call this cheap law a firebrand, with which a great moral incendiary is lurking about your quiet homes, to consume your domestic peace ! To set fire to all the bad spirit that may be among you ! Yes — translate all the pompous designing fallacies of your "friend" — thus : —

"Poor people ! My sweet friends ! I am your sincere, your strong, your only true Friend, and therefore wish to give to all of you the ready means of lawing and being lawed ! If any poor brother of you is the other's creditor, don't pause to reflect, but hurry into the next street after your rights ! Cast him instantly into prison, till he has paid you the uttermost farthing ! Do not let your firmness be shaken by the shocking spectacle of his ruined, houseless wife and children ! Have your rights, though your brother perish ; and what does it matter, though you must be prepared, if ever you should happen to become a debtor, to give in like manner his rights to your rich creditor ? For you must remember, dear friends, that the law, which is sharp, is sharp as a *two-edged* sword — sharp for you, and sharp for HIM ! If you can by any means tease, harass, and affront this your richer neighbour, by 'having the law of him,' do so, do so !

Rely upon it, he will like your spirit ! He will give you time to pay your rent ! You will never hear of a *distress-warrant* ! He will supply you with goods on longer credit ! If trouble comes upon you, sickness or want, see if he do not fly to your assistance ! Therefore, help me to get this cheap law for you, by sending petitions on petitions into parliament, or I can never succeed, for your Enemies are strong ! ”

Ah, you False Friend ! Verily, “ you are guilty concerning this your poor brother ! ” You are selling him bound hand and foot to the Egyptians ! Nay, you are betraying both your rich and poor brothers ! You are deceiving each about the other, and making them hate one another ; you set the rich against the poor, and then leave the poor totally at their mercy ; hoping, perhaps, that out of all this family hubbub and dissension, you may run off with the mess of pottage !

This is no declamation or misrepresentation. We have one fact, pregnant with sad significance, yet to mention which clenches all we have been charging, of motive and design, upon our “ Poor Man’s Friend.” As soon as he was defeated last session in the House of Lords*, a member of the House of Commons rose in his place the very same evening, to give notice of his intention to introduce *there* the Poor Man’s Bill ! Now, who was this member ? — *Daniel O’Connell* — the IRISH Poor Man’s Friend ! coming to the assistance of the ENGLISH Poor Man’s Friend ! He who has done so much for “ the finest peasantry under the sun,” or rather made them do so much for *him* ; he who is so apt a scholar at devising means for beggarizing and demoralising his own countrymen, sees instinctively in an instant the scope of the Local Courts Bill, as perfectly capable of producing those disastrous effects on the peasantry of this country ! Of all members of the House of Commons, the Big Beggarman of Ireland shouts his acquiescence and support into the delighted ear of the English Poor Man’s Friend ! Sir Robert Inglis, we recollect, once said, that the mere fact

* Despite the despicable trick about the Division.

of O'Connell's supporting any measure, was a reason for *his* opposing it! Does not the fact of THIS man's advocacy of the Local Courts Bill startle you! Can you believe that there is a good wish in his heart—if heart he has—towards you?* Here are two disastrous stars in conjunction! Mr. O'Connell and Lord Brougham are at issue about every thing except this one question—this giving you “cheap justice!” *Here* they run in a leash together!

“ Sure such a pair were never seen —
So justly form'd to meet by nature ! ”

So much for the false pretensions of this bill, as being one for benefiting the Poor Man; a title which we are ready in charity to believe that Lord Brougham will not any longer contend for in the House of Lords, or attempt to find any one audacious and silly enough to introduce into the House of Commons. If this latter should come to pass, it will be met with a universal shout of laughter! We shall wait and see who steps forward to claim *there*, in advocacy of this bill, the title of the “Poor Man's Friend;” and let him not think we shall forget him!

We deeply regret being unable to follow this bill—this quintessence of quackery—into all its miserable details, and expose their grossness before an intelligent public, but our allotted space is already exceeded. Its other main object is palpably to destroy the CERTAINTY of the law, and the very existence of its professors. He is blind and besotted indeed who cannot see the inestimable blessings of settled certainty in the law. Let him read the beau-

* If it be possible to attach a grain of importance to any thing said by this person, only look at his evidence on the subject before a Committee of the House of Commons: “ My own abstract opinion is, that the evil of serving process for the recovery of small debts, and the necessary increase of oaths, is much greater than any that would occur, if they were irrecoverable. I believe few small debts would be unpaid, if there were no legal process; for no one would get credit but the man who had a character for punctuality. The practice of the Civil Bill Court has introduced a most frightful extent of perjury, and tends extremely to demoralise the Irish people ”!!!

tiful and convincing observations of Lord Lyndhurst on this point, in each of the two last debates on this question, and his obstinacy must yield to the force of demonstration, that this bill, if carried, instantly destroys it. Only imagine the effects of some sixty independent judges laying down their own notions of law! Are there to be REPORTS of all their decisions? If so, “even the world itself could not contain the books that should be written”—no private purse can purchase them—no head, however clear and experienced, be able to reconcile their conflicting contents; and if bad local law is to be corrected in every instance by the courts above—and if it is not, the consequences will be fearful—then all the new and costly machinery will have little other effect than to aggravate thousandfold all the evils it *pretends* to remedy—to fling us back into the former state so well described by Sir Matthew Hale.

“This” [County Courts, &c.], “doubtless, bred great inconveniences; uncertainty, and variety in the law; first, by the ignorance of the judges, who, in process of time, neglected the study of the English law. Another was—that it also bred great variety of laws, especially in the several counties. For the decisions being made by divers Courts, and several independent judges and judicatories, who had no common interest among them in their several judicatories, thereby, in process of time, every several county would have several laws, customs, rules, and forms of proceedings—which is always the effect of several independent judicatories, administered by several judges.”*

And into the modern state of confusion so sadly depicted by M. Royer Collard as existing in France—

“Such is the deplorable system the Empire has bequeathed to the Restoration. The necessarily resulting evils have developed themselves—and never, perhaps, has France possessed a more inefficient and less respected magistracy. It is now easy to understand the weakness

* And see Sullivan’s Lectures on the Laws of England, pp. 296–8.; Reeves’s History of the English Law, vol. i. pp. 52, 53.; 3 Blackst. Com. 356.

of the Bar. The Courts have little taste for questions of law ; their whole art consists in avoiding cassation. The consequence is, that the advocate studies only to present his case in such a manner as to conciliate the judges, and despises a science which would be rather prejudicial than useful to him. I repeat, learning is almost as rare at the Bar, as on the Bench."

Alas ! are all the arguments of great and learned men — are all the fruits of experience, in ancient and in modern times, both at home and abroad — to be utterly disregarded, at the bidding of so presumptuous and headstrong an innovator as Lord Brougham and Vaux ? Is the science of the law to melt away before *his* glance ? Is the Bar to be broken up into fragments, and its members flung at random over the country at *his* bidding ? Is the kingdom to be deprived of its grand security in these its natural bulwarks, because Lord Brougham hates them ? Where, hereafter, — if this bill be carried — will the young lawyer be trained, in the school of independence and learning, to fight the battles of the poor and oppressed, nobly daring all the frowns and menaces of unconstitutional powers ? What countervailing advantage is to supply the place of the present extensive body of eminent, experienced, and honourable solicitors — men above all taint or suspicion — the secret, incorruptible, and almost universal depositaries of confidence and property between man and man ? Is a worse than the plague of lice to be brought upon us at the breathing of Lord Brougham in the shape of the scoundrel pettifogger — a reptile that now dare hardly creep into the light of day, but *then* would overrun the whole country in noisome and pestilential swarms ? All these are to the country matters of grave importance ; to Lord Brougham, possibly — of contempt and derision !

" My Lord, we will conceal nothing from you. We will speak out frankly to you. We did not [take up our pen] to flatter you. We will neither give, nor take flattery. We will be neither its victims nor its dispensers. We will give utterance to the plain truth, even though it be unpalatable *," and tell you in downright

* See the conclusion of his reply on the Local Courts Bill.

terms, that you are a dangerous man—dangerous to the Bar which you dread, the Attornies whom you hate, the *Law* you do not understand; that we believe you are actuated, in bringing in, and obstinately adhering to this stupid Bill, by most unworthy motives, and we should not do our duty to ourselves, or to our country, did we not thus roughly handle, thus fearlessly expose you. Do not accuse us of personal rancour—for, at the utmost, we do but borrow our weapons out of the cleanliest that are to be found in your own extensive armoury!

Yes—we have succeeded, we hope, in developing the secret spring of certain leading motives and purposes of Lord Brougham. We have shown how long he has striven after *popularity*, by what means he has obtained it, to what ends he is turning it. We have exposed his sedulous, systematic, most mean and disgraceful depreciation of the Aristocracy; and his reasons for breaking down the English Bar—destroying the science of the law itself, and converting its faithful ministers into mere mercenaries, depending for their all upon himself. We have exposed the paltry manœuvres by which he has pressed into his services the suffrages of the lower orders—at once inflaming and inveterating their prejudices against “their self-nominated superiors”—and destroying the bond of union and happiness amongst themselves. We have pointed out the distinguished individual who has so signally—yet, so unassumingly withal—vanquished Lord Brougham,—vindicated the liberties of the subject, the independence of the Bar, the majesty of the law, and,—last not least, afforded a timely specimen of dignified senatorial and judicial eloquence and wisdom in the House of Lords—a needful service, ever since the introduction there of certain gross buffooneries and vulgar personalities. We call upon Lord Lyndhurst to be “to himself true;” in the name of all that is English, and of all that is independent, of all that is constitutional, to awake and bestir himself in these “ticklish times;” to become as a light set upon a hill; and as an orator — a legislator — to preserve his high fame, till it be as widely appreciated as are his splendid qualifications as a Judge.

As for the Local Courts Bill itself—we have now beaten down that grand stalking-horse. Yes, we have torn to pieces this “monster of legislation;” and here, reader, you may see as in a picture, its bleeding disfigured carcass—its *disjecta membra*—with the mountebank proprietor standing lackadaisically beside it, mournfully pondering the probabilities of resuscitation. “Alas,” you may now say, “for the poor showman, who supported himself by leading it about the streets, gathering ‘*copper*’ opinions from all poor passers-by! His bear being slain, ‘his occupation’s gone’—till he return with *another*,—or, peradventure, with a monkey riding on a dog, making moving appeals—

‘To all the common folk that walk about,
And stare i’the streets, at shows’”!

NOTE I.

THE following memorable passage we have thought fit rather to place thus conspicuously at the close of these remarks, than introduce into the body of the text:—

“But, as I said before, the business of Inferior Courts grew gradually less and less, and consequently their profits and business of any moment came to the GREAT COURTS; *where they were despatched with greater justice and equality*. Besides, the Greater Courts, observing what partiality and brocage was used in the Inferior Courts, gave a pretty quick ear to writs of false judgment; which was the appeal the law allowed from erroneous judgments in the County Courts: and THIS, by degrees, wasted the credit and business of those Inferior Courts.” — SIR MATTHEW HALE, *History of the Common Law*, p. 146.

NOTE II.

THE system of trying issues in actions under twenty pounds, in the Sheriffs’ Courts (stat. 3 and 4 W. 4. c. 42. § 17.), now in active working, and the prodigious lowering of the costs, &c., by the recent orders of the Judges, so that twenty pounds may now be recovered at an expense of five pounds, warrants the observation, that the project of *now* establishing ‘Local Courts’ is equally absurd and iniquitous.



